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OFFICE OF PETITIONS

In re Application of :
Ty Bordner et al :
Application No. 09/957,465 : DECISION GRANTING PETITION
Filed: September 21, 2001 : UNDER 37 CFR 1.137(b)
Attorney Docket No. 72167.000594 :

This is a decision on the petition under 37 CFR 1.137(b), filed March 20, 2006, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 3, 2005, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on September 7, 2005 (September 3, 2005, the due date, was a Saturday, and Monday, September 5, 2005, was a Federal holiday).


The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply (amendment), (2) the \$1,500 petition fee, and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the non-final Office action of June 3, 2005 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such

inquiry results in the discovery that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3218.

This matter is being referred to Technology Center AU 2161 for appropriate action in the normal course of business on the reply received March 20, 2006.


Frances Hicks
Petitions Examiner
Office of Petitions